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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

FREEMAN, MICHAEL VICTOR
4075 Vineyard Avenue, No. 12
Pleasanton, CA 94566

Physical Therapist License No. AT 4997

Respondent.

Case No. 1D 2003 63461

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical
Therapy Board of California. He brought this action solely in his official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by
Stephen M. Boreman, Deputy Attorney General.

2. FREEMAN, Michael Victor (Respondent) is representing himself in this
proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about January 15, 1998, the Physical Therapy Board of California
issued Physical Therapist License No. AT 4997 to FREEMAN, Michael Victor (Respondent).

1 The License was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 1D 2003 63461 and will expire on January 31, 2005, unless renewed.

3 JURISDICTION

4 4. Accusation No. 1D 2003 63461 was filed before the Physical Therapy
5 Board of California (Board), Department of Consumer Affairs, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on February 11, 2004. Respondent timely filed his Notice of Defense contesting
8 the Accusation. A copy of Accusation No. 1D 2003 63461 is attached as exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations
12 in Accusation No. 1D 2003 63461. Respondent has also carefully read, and understands the
13 effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
17 the right to present evidence and to testify on his own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of the charges and allegations in Accusation
25 No. 1D 2003 63461.

26 9. Respondent agrees that his Physical Therapist License is subject to
27 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
28 Disciplinary Order below.

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1 other physical therapist practicing.

2 4. RESTRICTION OF PRACTICE - PROHIBITION OF SELF
3 EMPLOYMENT OR OWNERSHIP Respondent may not be the sole proprietor or partner in the
4 ownership of any business that offers physical therapy services. Respondent may not be an
5 officer of any corporation that offers or provides physical therapy services. Respondent may not
6 employ physical therapists, physical therapist assistants or physical therapy aides.

7 5. RESTRICTION OF PRACTICE - PROHIBITION OF DIRECT
8 INSURANCE BILLING Respondent shall not have final approval over any billings submitted
9 to any third-party payors in any employment as a physical therapist.

10 6. RESTRICTION OF PRACTICE - ADMINISTRATION OR
11 POSSESSION OF CONTROLLED SUBSTANCES Respondent shall not administer or possess
12 any controlled substances as defined in the California Uniform Controlled Substances Act. This
13 prohibition does not apply to medications lawfully prescribed to respondent for a bona fide
14 illness or condition by a practitioner licensed to prescribe such medications.

15 7. PROHIBITION OF POSSESSION OR USE OF CONTROLLED
16 SUBSTANCES Respondent shall abstain completely from the personal use or possession of
17 controlled substances as defined in the California Uniform Controlled Substances Act, dangerous
18 drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a
19 prescription. This prohibition does not apply to medications lawfully prescribed to respondent
20 for a bona fide illness or condition by a practitioner licensed to prescribe such medications.

21 8. PROHIBITION OF THE USE OF ALCOHOL Respondent shall abstain
22 completely from the use of alcoholic beverages.

23 9. BIOLOGICAL FLUID TESTING Respondent shall immediately submit
24 to biological fluid testing, at respondent's cost, upon the request of the Board or its designee.

25 10. DIVERSION PROGRAM Within 15 days from the effective date of this
26 decision, respondent shall enroll and participate in the Board's Diversion Program until the Board
27 determines that participation in the diversion program is no longer necessary. Failure to comply
28 with requirements of the Diversion Program, terminating the program without permission or

being expelled for cause shall constitute a violation of probation by respondent.

11. PROBATION MONITORING COSTS All costs incurred by the Board for probation monitoring during the entire period of probation shall be reimbursed by respondent. Respondent will be billed at least quarterly. Failure to make the ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order. In addition to the filing of an Accusation or the issuance of an administrative citation, the filing of criminal charges shall be sought when appropriate.

12. COST RECOVERY The respondent is ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$1,000. The respondent will normally be ordered to make the reimbursement within 30 days from the effective date of the decision unless the Board agrees in writing to payment by an installment plan. Failure to make the ordered reimbursement, or any agreed upon payment, may constitute a violation of the probation order.

13. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, and statutes and regulations governing the practice of physical therapy in California.

14. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be in compliance with any valid order of a court. Being found in contempt of any court may constitute a violation of probation.

15. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF RESTITUTION Respondent must not violate any terms and conditions of criminal probation and must be in compliance with any restitution ordered.

16. QUARTERLY REPORTS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

17. PROBATION MONITORING PROGRAM COMPLIANCE Respondent shall comply with the Board's probation monitoring program.

18. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in person for interviews with the Board, or its designee, upon request at various

intervals and with reasonable notice.

19. NOTIFICATION OF PROBATIONAL STATUS TO EMPLOYERS The respondent shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the Accusation and the stipulated settlement to the employer. The respondent shall obtain written confirmation from the employer that the documents were received. If the respondent changes employment or obtains additional employment, the respondent shall provide the above notification to the employer and submit written employer confirmation to the Board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.

20. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The respondent shall notify the Board, in writing, of any and all changes of name or address within ten (10) days.

21. RESTRICTION OF PRACTICE - TEMPORARY SERVICES AGENCIES Respondent may only practice or perform physical therapy in a supervised structured environment. The respondent shall not work for a temporary services agency or registry.

22. PROHIBITED USE OF ALIASES Respondent may not use aliases and shall be prohibited from using any name which is not his legally-recognized name or based upon a legal change of name.

23. WORK OF LESS THAN 20 HOURS PER WEEK If the respondent works less than 192 hours in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The respondent shall notify the Board if him works less than 192 hours in a three month period.

24. TOLLING OF PROBATION The period of probation shall run only during the time respondent is practicing within the jurisdiction of California. If, during probation, respondent does not practice within the jurisdiction of California, respondent is required to immediately notify the probation monitor in writing of the date that respondent's

1 practice is out of state, and the date of return, if any. Practice by the respondent in California
2 prior to notification to the Board of the respondent's return will not be credited toward
3 completion of probation. Any order for payment of cost recovery shall remain in effect whether
4 or not probation is tolled.

5 25. VIOLATION OF PROBATION If respondent violates probation in any
6 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke
7 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
8 revoke probation is filed against respondent during probation, the Board shall have continuing
9 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
10 is final.

11 26. CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR
12 OTHER REASONS Following the effective date of this probation, if respondent ceases
13 practicing physical therapy due to retirement, health or other reasons, respondent may request to
14 surrender his license to the Board. The Board reserves the right to evaluate the respondent's
15 request and to exercise its discretion whether to grant the request or to take any other action
16 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the
17 tendered license, the terms and conditions of probation shall be tolled until such time as the
18 license is no longer renewable, the respondent makes application for the renewal of the tendered
19 license or makes application for a new license.

20 27. COMPLETION OF PROBATION Upon successful completion of
21 probation, respondent's license or approval shall be fully restored.

22 28. WRITTEN EXAM ON THE LAWS & REGULATIONS GOVERNING
23 THE PRACTICE OF PHYSICAL THERAPY Within 90 days of the effective date of this
24 decision, respondent shall take and pass the Board's written examination on the laws and
25 regulations governing the practice of physical therapy in California. If respondent fails to pass
26 the examination, respondent shall be suspended from the practice of physical therapy until a
27 repeat examination has been successfully passed.

28 29. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE

1 ON PROBATION It is not contrary to the public interest for the respondent to practice physical
2 therapy under the probationary conditions specified in the disciplinary order.

3
4 ACCEPTANCE

5 I have carefully read the Stipulated Settlement and Disciplinary Order. I
6 understand the stipulation and the effect it will have on my Physical Therapist License. I enter
7 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
8 and agree to be bound by the Decision and Order of the Physical Therapy Board of California.

9 DATED: 06/21/2004.

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11 Original Signed By:
12 FREEMAN, MICHAEL VICTOR
Respondent

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15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Physical Therapy Board of California of the Department of
18 Consumer Affairs.

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20 DATED: 06/25/2004.

21 BILL LOCKYER, Attorney General
22 of the State of California

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24 Original Signed By:
STEPHEN M. BOREMAN
25 Deputy Attorney General

26 Attorneys for Complainant

Exhibit A
Accusation No. 1D 2003 63461

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
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DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 19, 2004.

It is so ORDERED July 20, 2004.

Original Signed By: Donald A. Chu, PhD, P.T., President
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS